



Queensland

# Criminal Practice (Interpreters) and Other Rules Amendment Rule 2024

## Subordinate Legislation 2024 No. 56

made under the

*Supreme Court of Queensland Act 1991*

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## **Part 1 Preliminary**

### **1 Short title**

This rule may be cited as the *Criminal Practice (Interpreters) and Other Rules Amendment Rule 2024*.

## **Part 2 Amendment of Criminal Practice Rules 1999**

### **2 Rules amended**

This part amends the *Criminal Practice Rules 1999*.

### **3 Amendment of r 13 (Forms generally)**

Rule 13—

*insert—*

*Notes—*

- 1 Forms for use under these rules may be approved under the *Supreme Court of Queensland Act 1991*, section 87.
- 2 Approved forms are available on the Queensland Courts website.
- 3 See the *Acts Interpretation Act 1954*, section 48A(1) in relation to the effect of substantial compliance with an approved form.

### **4 Insertion of new ch 11, pt 1, hdg**

Before rule 52—

*insert—*

## **Part 1 General**

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**5 Amendment of r 52 (Application of ch 11)**

(1) Rule 52, heading, ‘ch 11’—

*omit, insert—*

**part**

(2) Rule 52(1), ‘chapter’—

*omit, insert—*

part

**6 Insertion of new ch 11, pt 2**

Chapter 11—

*insert—*

**Part 2 Interpreters**

**54AA Main purposes of part**

The main purposes of this part are—

- (a) to ensure the court has control over the giving of evidence that is interpreted, translated or sight translated into English; and
- (b) to recognise the special status of an interpreter in the administration of justice by declaring the duties of an interpreter in relation to the court and the parties to a proceeding.

**54AB Definitions**

In this part—

***accurately***, in relation to interpreting, translating or sight translating, means—

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- (a) resulting in the optimal and complete transfer of the meaning of the other language into English and of English into the other language; and
- (b) preserving the content and intent of the other language or English (as the case may be) without omission or distortion, including matters the interpreter may consider inappropriate or offensive.

***code of conduct*** means the code of conduct for interpreters set out in schedule 5A.

***interpret*** means to carry out the process by which spoken or signed language is conveyed from one language (known as the source language) to another language (known as the target language) orally.

***other language*** means a spoken or signed language other than English.

***recognised agency*** means—

- (a) the National Accreditation Authority for Translators and Interpreters (NAATI); or
- (b) another entity approved by the Chief Justice to be a recognised agency for the purposes of this part.

***sight translate*** means to carry out the process by which an interpreter or translator presents a spoken or signed interpretation of a written text.

***translate*** means to carry out the process by which written language is conveyed from one language (known as the source language) to another language (known as the target language) in written form.

### **54AC Proceedings to be conducted in English**

Subject to this part, proceedings are to be conducted in English.

### **54AD When interpreter must be provided for accused person**

- (1) This rule applies if the court is satisfied that an accused person in a proceeding can not understand and speak the English language sufficiently to enable the accused person to—
  - (a) understand and participate in the proceeding; or
  - (b) understand, and make adequate reply to, questions that may be put to the accused person in the proceeding.
- (2) The court must ensure the accused person is provided with an interpreter.
- (3) If an interpreter is provided under subrule (2), the court is responsible for engaging and bearing the costs of the interpreter.

### **54AE When interpreter is required by witness**

- (1) This rule applies if the court is satisfied that a witness in a proceeding can not understand and speak the English language sufficiently to enable the witness to understand, and make adequate reply to, questions that may be put to the witness in the proceeding.
- (2) The witness may—
  - (a) give spoken evidence or signed evidence in the other language that is interpreted into English by an interpreter in accordance with this part; or

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- (b) give evidence by an affidavit or statement in English that has been sight translated to the witness by an interpreter in accordance with rule 54AJ.
- (3) Unless the court orders otherwise, the party calling the witness is responsible for engaging, and bearing the costs of, an interpreter who meets the standards and requirements imposed by this part.

*Note—*

See the *Evidence Act 1977*, section 131A in relation to the court's power to order the State to provide an interpreter in a criminal proceeding.

### **54AF Who may act as interpreter generally**

- (1) A person must not act as an interpreter in a proceeding unless the person—
  - (a) is currently certified, registered or recognised as an interpreter for the other language by a recognised agency, or otherwise satisfies the court that the person is qualified to act as an interpreter for the other language; and
  - (b) has read and agreed to comply with the code of conduct; and
  - (c) takes an oath, or makes an affirmation, to interpret accurately to the best of the person's ability.
- (2) Also, a person must not act as an interpreter in a proceeding if the person—
  - (a) is or may become a party to, or witness in, the proceeding (other than as an interpreter); or
  - (b) is related to, or has a close personal relationship with—



- (i) a party to the proceeding or a member of a party's family; or
- (ii) a witness or potential witness in the proceeding; or
- (c) has or may have a financial or other interest of any kind in the outcome of the proceeding, other than an entitlement to a reasonable fee for the services provided by the interpreter in the course of their engagement; or
- (d) is or may be unable to fulfil their duty of accuracy or impartiality under the code of conduct for any reason, including, for example—
  - (i) personal or religious beliefs; and
  - (ii) cultural or other circumstances.
- (3) If a person acting as an interpreter in a proceeding becomes aware during a hearing of the proceeding that a matter mentioned in subrule (2) applies in relation to the person, the person must—
  - (a) cease to act as an interpreter in the proceeding; and
  - (b) immediately disclose the matter to the court.

### **54AG Granting leave for person to act, or continue to act, as interpreter**

- (1) This rule applies if a person is prohibited from acting, or continuing to act, as an interpreter under rule 54AF(1), (2) or (3).
- (2) The court may grant leave for the person to act, or continue to act, as an interpreter if it is in the interests of justice and, to the extent practicable—
  - (a) the court is satisfied that, because of the person's specialised knowledge based on the

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person's training, study or experience, the person is able to interpret and, if necessary, sight translate accurately to the level the court considers satisfactory in all the circumstances from the other language into English and from English into the other language; and

- (b) the person takes an oath, or makes an affirmation, to interpret accurately to the best of the person's ability; and
- (c) the court is satisfied that the person understands and accepts that, in acting as an interpreter, the person—
  - (i) is not an agent, assistant or advocate of the witness or the accused person for whom the person is to act as an interpreter, or of the party who has engaged the interpreter; and
  - (ii) owes a paramount duty to the court to be accurate to the best of the person's ability and impartial; and
- (d) the court directs that the evidence and interpretation be sound recorded for spoken languages or video recorded for signed languages; and
- (e) the person is an adult.

### **54AH Duties of interpreter**

- (1) An interpreter owes a paramount duty to the court to be accurate to the best of the interpreter's ability and impartial.
- (2) The duty to the court under subrule (1) overrides any duty the interpreter may have to a party to the proceeding (regardless of whether the party engaged the interpreter).

- (3) Unless the court orders otherwise, an interpreter must—
  - (a) interpret questions and all other spoken or signed communications in the hearing of the proceeding for the witness or accused person from English into the other language and from the other language into English; and
  - (b) subject to subrule (4), sight translate, whether before or during the course of a witness's evidence, documents shown to the witness.
- (4) An interpreter may refuse to sight translate a document if—
  - (a) the interpreter considers that the interpreter is not competent to do so; or
  - (b) sight translating the document would be too onerous or difficult because of the length or complexity of the text.
- (5) Unless the court orders otherwise, an interpreter may not assist a party or a party's legal representatives in their conduct of a proceeding (including a hearing) other than by—
  - (a) interpreting questions and other spoken or signed communications in connection with the proceeding from English into the other language and from the other language into English; or
  - (b) sight translating documents in connection with the proceeding from English into the other language and from the other language into English.

### **54AI Code of conduct for interpreters**

- (1) An interpreter must comply with the code of

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conduct.

- (2) Unless the court orders otherwise, as soon as practicable after an interpreter is engaged for a proceeding, a copy of the code of conduct is to be given to the interpreter by—
  - (a) if the interpreter is engaged by a party—the party; or
  - (b) if the interpreter is engaged by the court—the court.
- (3) Unless the court orders otherwise, a witness may not give evidence using an interpreter unless the court is satisfied the interpreter has read the code of conduct and agreed to be bound by it.
- (4) Subrules (1) to (3) apply subject to rule 54AG.

#### **54AJ Translated evidence**

- (1) This rule applies if a party seeks to read or rely on a translated affidavit, or translated statement, of a witness who requires an interpreter.
- (2) Unless the court orders otherwise, the party may not read or rely on the affidavit or statement unless it includes a certification by the interpreter in the approved form, or the interpreter separately verifies by affidavit, to the effect that—
  - (a) before sight translating the affidavit or statement to the witness, the interpreter—
    - (i) had read the code of conduct and agreed to be bound by it; and
    - (ii) had been given an adequate opportunity to prepare to sight translate the affidavit or statement; and
  - (b) after sight translating the entire affidavit or statement to the witness, the witness—

- (i) informed the person responsible for preparing the affidavit or statement through the interpreter that the witness had understood the interpreter and agreed with the entire contents of the affidavit or statement; and
  - (ii) swore or affirmed the affidavit, or signed the statement, in the presence of the interpreter.
- (3) Unless the court orders otherwise, an interpreter who certifies or verifies an affidavit or statement of a witness under subrule (2) may, but is not required to, be the interpreter who acts as the interpreter for the witness in any hearing in the proceeding.

#### **54AK Court may request correction etc. of interpretation, translation or sight translation**

The court may at any time, on the application of a party to a proceeding or on the court's own initiative, request an interpreter to correct, clarify, qualify or explain the interpreter's interpretation of the evidence or translation or sight translation of a document.

#### **54AL Court may give directions in relation to interpreters**

- (1) The court may at any time, having regard to the nature of a proceeding (including the type of allegations made in the proceeding and the characteristics of the parties, the witnesses and the accused person), give directions relating to 1 or more of the following matters—
  - (a) any particular attributes required or not required for an interpreter to accommodate any cultural or other reasonable concerns of

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a party, a witness or the accused person, including, but not limited to—

- (i) gender; and
  - (ii) age; and
  - (iii) ethnic, cultural or social background;
- (b) the number of interpreters required in the proceeding and whether relay interpreting should be used;
  - (c) establishing the expertise of an interpreter;
  - (d) the steps to be taken to obtain an interpreter who is certified, registered or recognised by a recognised agency or is otherwise qualified to act as an interpreter;
  - (e) the steps to be taken before an order under rule 54AG is made;
  - (f) the information about the proceeding that may be provided to a person in advance of any hearing in the proceeding to assist the person to prepare to act as an interpreter for the hearing, including, but not limited to—
    - (i) the indictment or charge sheet; and
    - (ii) affidavits and statements; and
    - (iii) lists of witnesses; and
    - (iv) other documents;
  - (g) when, and in what circumstances and under what conditions (if any), the information mentioned in paragraph (f) may be provided;
  - (h) whether an interpreter is to interpret a witness's evidence consecutively, simultaneously or in some other way;
  - (i) other resources an interpreter may need to consult in the course of acting as an

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- interpreter, including, for example, dictionaries and other reference works;
- (j) the length of time for which an interpreter should interpret during a hearing without a break;
  - (k) security for an interpreter, including, if necessary, arrangements to preserve the anonymity of the interpreter;
  - (l) practical matters relating to an interpreter, including, for example, the seating for and the location of the interpreter, and any necessary equipment to assist the interpreter;
  - (m) the disqualification, removal or withdrawal of an interpreter, including on the application of the interpreter or any party to the proceeding or by the court on its own initiative;
  - (n) the payment of interpreters;
  - (o) any other direction the court considers appropriate.
- (2) Subrule (1) does not limit the generality of the court's power to control its own procedures.

## 7 Insertion of new sch 5A

After schedule 5—

*insert—*

### **Schedule 5A Code of conduct for interpreters**

rule 54AB, definition *code of conduct*

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## 1 Application of code of conduct

This code of conduct applies to any person (an *interpreter*) who, whether or not for fee or any other reward, is engaged or volunteers to act as an interpreter in a proceeding, or otherwise becomes involved in acting as an interpreter in a proceeding, by—

- (a) interpreting from any spoken or signed language (the *other language*) into English and from English into the other language for any person; and
- (b) sight translating documents.

## 2 Definitions for code of conduct

In this code of conduct—

*accurate*, in relation to an interpretation, translation or sight translation, means—

- (a) resulting in the optimal and complete transfer of the meaning of the other language into English, and of English into the other language; and
- (b) preserving the content and intent of the other language or English (as the case may be) without omission or distortion, including matters the interpreter might consider inappropriate or offensive.

*interpret* means to carry out the process by which spoken or signed language is conveyed from one language (known as the source language) to another language (known as the target language) orally.

*interpreter* see rule 1.

*other language* see rule 1.

*sight translate* means to carry out the process by



which an interpreter or translator presents a spoken or signed interpretation of a written text.

*translate* means to carry out the process by which written language is conveyed from one language (known as the source language) to another language (known as the target language) in written form.

### **3 General duty to the court**

- (1) An interpreter has an overriding duty—
  - (a) to be accurate to the best of the interpreter’s ability; and
  - (b) to assist the court impartially.
- (2) An interpreter’s paramount duty is to the court and not to any party to, or witness in, the proceeding (including the person engaging or paying the interpreter).
- (3) An interpreter is not an agent, assistant or advocate of a party to, or witness in, the proceeding.

### **4 Duty to comply with directions**

An interpreter must comply with any direction of the court.

### **5 Duty of accuracy**

- (1) An interpreter must at all times use their best judgement to be accurate in their interpretation, translation or sight translation.
- (2) If an interpreter considers that their interpretation, translation or sight translation is, or could be, in any way inaccurate or incomplete, or that it requires qualification or explanation (including, but not limited to, because the other language is

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ambiguous or otherwise unclear for any reason)—

- (a) the interpreter must immediately inform the party who engaged them and provide the necessary correction, qualification or explanation to the party; and
- (b) if their interpretation, translation or sight translation is being given or was given in court, immediately inform the court and provide the necessary correction, qualification or explanation to the court.

## **6 Duty of impartiality**

- (1) An interpreter must, at all times, act as an interpreter impartially so as to be without bias in favour of or against any person, including, but not limited to—
  - (a) the person whose evidence the interpreter is interpreting; and
  - (b) the party who has engaged, or is paying, the interpreter; and
  - (c) any other party to, or person involved in, the proceeding.
- (2) Unless the court orders otherwise, an interpreter must not accept an engagement to act as an interpreter in relation to a proceeding if the interpreter—
  - (a) is or may become a party to, or witness in, the proceeding; or
  - (b) is related to, or has a close personal relationship with—
    - (i) a party to the proceeding or a member of a party's family; or
    - (ii) a witness or potential witness in the proceeding; or

- (c) has or may have a financial or other interest of any kind whatsoever in the outcome of the proceeding, other than an entitlement to a reasonable fee for the services provided by the interpreter in the course of their engagement; or
  - (d) is or may be unable to fulfil their duty of accuracy or impartiality for any reason including, for example—
    - (i) personal or religious beliefs; and
    - (ii) cultural or other circumstances.
- (3) Other than carrying out their engagement to act as an interpreter, an interpreter must not provide any other assistance, service or advice in relation to the proceeding to any person, including—
- (a) the party, legal representative or other person who has engaged the interpreter; or
  - (b) any witness or potential witness in the proceeding.

## **7 Duty of competence**

- (1) An interpreter must only undertake work they are competent to perform in the languages for which they are qualified by reason of their training, qualifications or experience.
- (2) If it becomes apparent in the course of a proceeding that expertise beyond the interpreter's level of competence is required, the interpreter must—
  - (a) inform the court immediately; and
  - (b) work to resolve the situation by either withdrawing from the proceeding or following another strategy acceptable to the court.

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## 8 Duty of confidentiality

- (1) An interpreter must keep confidential all information in any form whatsoever that the interpreter acquires in the course of their engagement to act as an interpreter (including any communication subject to legal professional privilege).
- (2) Subrule (1) does not apply to the extent—
  - (a) the disclosure of the information is required by an Act or another law; or
  - (b) the information is in, or comes into, the public domain other than by an act of the interpreter in breach of this duty of confidentiality; or
  - (c) the beneficiary of the legal professional privilege has waived the privilege.

## 8 Amendment of sch 6 (Dictionary)

- (1) Schedule 6—

*insert—*

*accurately*, in relation to interpreting, translating or sight translating, for chapter 11, part 2, see rule 54AB.

*code of conduct*, for chapter 11, part 2, see rule 54AB.

*interpret*, for chapter 11, part 2, see rule 54AB.

*other language*, for chapter 11, part 2, see rule 54AB.

*recognised agency*, for chapter 11, part 2, see rule 54AB.

*sight translate*, for chapter 11, part 2, see rule 54AB.

*translate*, for chapter 11, part 2, see rule 54AB.



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- (b) to recognise the special status of an interpreter in the administration of justice by declaring the duties of an interpreter in relation to the court and the parties to a proceeding.

## 429VB Definitions

In this part—

*accurately*, in relation to interpreting, translating or sight translating, means—

- (a) resulting in the optimal and complete transfer of the meaning of the other language into English and of English into the other language; and
- (b) preserving the content and intent of the other language or English (as the case may be) without omission or distortion, including matters the interpreter may consider inappropriate or offensive.

*code of conduct* means the code of conduct for interpreters set out in schedule 1D.

*interpret* means to carry out the process by which spoken or signed language is conveyed from one language (known as the source language) to another language (known as the target language) orally.

*other language* means a spoken or signed language other than English.

*recognised agency* means—

- (a) the National Accreditation Authority for Translators and Interpreters (NAATI); or
- (b) another entity approved by the Chief Justice to be a recognised agency for the purposes of this part.

*sight translate* means to carry out the process by which an interpreter or translator presents a spoken or signed interpretation of a written text.

*translate* means to carry out the process by which written language is conveyed from one language (known as the source language) to another language (known as the target language) in written form.

#### **429VC Proceedings to be conducted in English**

Subject to this part, proceedings are to be conducted in English.

#### **429VD When interpreter must be permitted for party**

- (1) This rule applies if the court is satisfied that a party to a proceeding can not understand and speak the English language sufficiently to enable the party to understand and participate in the proceeding.
- (2) The court must permit the party to engage an interpreter, who meets the standards and requirements imposed by this part, to enable the party to communicate with the court.
- (3) The party is responsible for bearing the costs of the interpreter.

#### **429VE When interpreter is required by witness**

- (1) This rule applies if the court is satisfied that a witness in a proceeding can not understand and speak the English language sufficiently to enable the witness to understand, and make adequate reply to, questions that may be put to the witness in the proceeding.
- (2) The witness may—

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- (a) give spoken evidence or signed evidence in the other language that is interpreted into English by an interpreter in accordance with this part; or
  - (b) give evidence by an affidavit or statement in English that has been sight translated to the witness by an interpreter in accordance with rule 429VJ.
- (3) The party calling the witness is responsible for engaging, and bearing the costs of, an interpreter who meets the standards and requirements imposed by this part.

#### **429VF Who may act as interpreter generally**

- (1) A person must not act as an interpreter in a proceeding unless the person—
- (a) is currently certified, registered or recognised as an interpreter for the other language by a recognised agency, or otherwise satisfies the court that the person is qualified to act as an interpreter for the other language; and
  - (b) has read and agreed to comply with the code of conduct; and
  - (c) takes an oath, or makes an affirmation, to interpret accurately to the best of the person's ability.
- (2) Also, a person must not act as an interpreter in a proceeding if the person—
- (a) is or may become a party to, or witness in, the proceeding (other than as an interpreter); or
  - (b) is related to, or has a close personal relationship with—



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- (i) a party to the proceeding or a member of a party's family; or
  - (ii) a witness or potential witness in the proceeding; or
  - (c) has or may have a financial or other interest of any kind in the outcome of the proceeding, other than an entitlement to a reasonable fee for the services provided by the interpreter in the course of their engagement; or
  - (d) is or may be unable to fulfil their duty of accuracy or impartiality under the code of conduct for any reason, including, for example—
    - (i) personal or religious beliefs; and
    - (ii) cultural or other circumstances.
  - (3) If a person acting as an interpreter in a proceeding becomes aware during a hearing of the proceeding that a matter mentioned in subrule (2) applies in relation to the person, the person must—
    - (a) cease to act as an interpreter in the proceeding; and
    - (b) immediately disclose the matter to the court.

**429VG Granting leave for person to act, or continue to act, as interpreter**

- (1) This rule applies if a person is prohibited from acting, or continuing to act, as an interpreter under rule 429VF(1), (2) or (3).
- (2) The court may grant leave for the person to act, or continue to act, as an interpreter if it is in the interests of justice and, to the extent practicable—
  - (a) the court is satisfied that, because of the person's specialised knowledge based on the

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person's training, study or experience, the person is able to interpret and, if necessary, sight translate accurately to the level the court considers satisfactory in all the circumstances from the other language into English and from English into the other language; and

- (b) the person takes an oath, or makes an affirmation, to interpret accurately to the best of the person's ability; and
- (c) the court is satisfied that the person understands and accepts that, in acting as an interpreter, the person—
  - (i) is not an agent, assistant or advocate of the witness for whom the person is to act as an interpreter, or of the party who has engaged the interpreter; and
  - (ii) owes a paramount duty to the court to be accurate to the best of the person's ability and impartial; and
- (d) the court directs that the evidence and interpretation be sound recorded for spoken languages or video recorded for signed languages; and
- (e) the person is an adult.

#### **429VH Duties of interpreter**

- (1) An interpreter owes a paramount duty to the court to be accurate to the best of the interpreter's ability and impartial.
- (2) The duty to the court under subrule (1) overrides any duty the interpreter may have to a party to the proceeding (regardless of whether the party engaged the interpreter).
- (3) Unless the court orders otherwise, an interpreter

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must—

- (a) interpret questions and all other spoken or signed communications in the hearing of the proceeding for the witness or party from English into the other language and from the other language into English; and
  - (b) subject to subrule (4), sight translate, whether before or during the course of a witness's evidence, documents shown to the witness.
- (4) An interpreter may refuse to sight translate a document if—
- (a) the interpreter considers that the interpreter is not competent to do so; or
  - (b) sight translating the document would be too onerous or difficult because of the length or complexity of the text.
- (5) Unless the court orders otherwise, an interpreter may not assist a party or a party's legal representatives in their conduct of a proceeding (including a hearing) other than by—
- (a) interpreting questions and other spoken or signed communications in connection with the proceeding from English into the other language and from the other language into English; or
  - (b) sight translating documents in connection with the proceeding from English into the other language and from the other language into English.

#### **429VI Code of conduct for interpreters**

- (1) An interpreter must comply with the code of conduct.

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- (2) Unless the court orders otherwise, as soon as practicable after an interpreter is engaged for a proceeding, the party who engaged the interpreter must give the interpreter a copy of the code of conduct.
- (3) Unless the court orders otherwise, a witness may not give evidence using an interpreter unless the court is satisfied the interpreter has read the code of conduct and agreed to be bound by it.
- (4) Subrules (1) to (3) apply subject to rule 429VG.

#### **429VJ Translated evidence**

- (1) This rule applies if a party seeks to read or rely on a translated affidavit, or translated statement, of a witness who requires an interpreter.
- (2) Unless the court orders otherwise, the party may not read or rely on the affidavit or statement unless it includes a certification by the interpreter in the approved form, or the interpreter separately verifies by affidavit, to the effect that—
  - (a) before sight translating the affidavit or statement to the witness, the interpreter—
    - (i) had read the code of conduct and agreed to be bound by it; and
    - (ii) had been given an adequate opportunity to prepare to sight translate the affidavit or statement; and
  - (b) after sight translating the entire affidavit or statement to the witness, the witness—
    - (i) informed the person responsible for preparing the affidavit or statement through the interpreter that the witness had understood the interpreter and agreed with the entire contents of the affidavit or statement; and

- (ii) swore or affirmed the affidavit, or signed the statement, in the presence of the interpreter.
- (3) Unless the court orders otherwise, an interpreter who certifies or verifies an affidavit or statement of a witness under subrule (2) may, but is not required to, be the interpreter who acts as the interpreter for the witness in any hearing in the proceeding.

#### **429VK Court may request correction etc. of interpretation, translation or sight translation**

The court may at any time, on the application of a party to a proceeding or on the court's own initiative, request an interpreter to correct, clarify, qualify or explain the interpreter's interpretation of the evidence or translation or sight translation of a document.

#### **429VL Court may give directions in relation to interpreters**

- (1) The court may at any time, having regard to the nature of a proceeding (including the type of allegations made in the proceeding and the characteristics of the parties and witnesses), give directions relating to 1 or more of the following matters—
  - (a) any particular attributes required or not required for an interpreter to accommodate any cultural or other reasonable concerns of a party or a witness, including, but not limited to—
    - (i) gender; and
    - (ii) age; and
    - (iii) ethnic, cultural or social background;

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- (b) the number of interpreters required in the proceeding and whether relay interpreting should be used;
- (c) establishing the expertise of an interpreter;
- (d) the steps to be taken to obtain an interpreter who is certified, registered or recognised by a recognised agency or is otherwise qualified to act as an interpreter;
- (e) the steps to be taken before an order under rule 429VG is made;
- (f) the information about the proceeding that may be provided to a person in advance of any hearing in the proceeding to assist the person to prepare to act as an interpreter for the hearing, including, but not limited to—
  - (i) pleadings; and
  - (ii) affidavits and statements; and
  - (iii) lists of witnesses; and
  - (iv) other documents;
- (g) when, and in what circumstances and under what conditions (if any), the information mentioned in paragraph (f) may be provided;
- (h) whether an interpreter is to interpret a witness's evidence consecutively, simultaneously or in some other way;
- (i) other resources an interpreter may need to consult in the course of acting as an interpreter, including, for example, dictionaries and other reference works;
- (j) the length of time for which an interpreter should interpret during a hearing without a break;

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- (k) security for an interpreter, including, if necessary, arrangements to preserve the anonymity of the interpreter;
  - (l) practical matters relating to an interpreter, including, for example, the seating for and the location of the interpreter, and any necessary equipment to assist the interpreter;
  - (m) the disqualification, removal or withdrawal of an interpreter, including on the application of the interpreter or any party to the proceeding or by the court on its own initiative;
  - (n) the payment of interpreters;
  - (o) any other direction the court considers appropriate.
- (2) Subrule (1) does not limit the generality of the court's power to control its own procedures.

## 11 Amendment of r 975 (Use of approved forms)

Rule 975, note—

*omit, insert—*

*Notes—*

- 1 Forms for use under these rules may be approved under the *Supreme Court of Queensland Act 1991*, section 87.
- 2 Approved forms are available on the Queensland Courts website.
- 3 See the *Acts Interpretation Act 1954*, section 48A(1) in relation to the effect of substantial compliance with an approved form.

## 12 Insertion of new sch 1D

After schedule 1C—

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*insert—*

## **Schedule 1D Code of conduct for interpreters**

rule 429VB, definition *code of conduct*

### **1 Application of code of conduct**

This code of conduct applies to any person (an *interpreter*) who, whether or not for fee or any other reward, is engaged or volunteers to act as an interpreter in a proceeding, or otherwise becomes involved in acting as an interpreter in a proceeding, by—

- (a) interpreting from any spoken or signed language (the *other language*) into English and from English into the other language for any person; and
- (b) sight translating documents.

### **2 Definitions for code of conduct**

In this code of conduct—

*accurate*, in relation to an interpretation, translation or sight translation, means—

- (a) resulting in the optimal and complete transfer of the meaning of the other language into English, and of English into the other language; and
- (b) preserving the content and intent of the other language or English (as the case may be) without omission or distortion, including matters the interpreter might consider inappropriate or offensive.

*interpret* means to carry out the process by which



spoken or signed language is conveyed from one language (known as the source language) to another language (known as the target language) orally.

*interpreter* see rule 1.

*other language* see rule 1.

*sight translate* means to carry out the process by which an interpreter or translator presents a spoken or signed interpretation of a written text.

*translate* means to carry out the process by which written language is conveyed from one language (known as the source language) to another language (known as the target language) in written form.

### **3 General duty to the court**

- (1) An interpreter has an overriding duty—
  - (a) to be accurate to the best of the interpreter’s ability; and
  - (b) to assist the court impartially.
- (2) An interpreter’s paramount duty is to the court and not to any party to, or witness in, the proceeding (including the person engaging or paying the interpreter).
- (3) An interpreter is not an agent, assistant or advocate of a party to, or witness in, the proceeding.

### **4 Duty to comply with directions**

An interpreter must comply with any direction of the court.

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## **5 Duty of accuracy**

- (1) An interpreter must at all times use their best judgement to be accurate in their interpretation, translation or sight translation.
- (2) If an interpreter considers that their interpretation, translation or sight translation is, or could be, in any way inaccurate or incomplete, or that it requires qualification or explanation (including, but not limited to, because the other language is ambiguous or otherwise unclear for any reason)—
  - (a) the interpreter must immediately inform the party who engaged them and provide the necessary correction, qualification or explanation to the party; and
  - (b) if their interpretation, translation or sight translation is being given or was given in court, immediately inform the court and provide the necessary correction, qualification or explanation to the court.

## **6 Duty of impartiality**

- (1) An interpreter must, at all times, act as an interpreter impartially so as to be without bias in favour of or against any person, including, but not limited to—
  - (a) the person whose evidence the interpreter is interpreting; and
  - (b) the party who has engaged, or is paying, the interpreter; and
  - (c) any other party to, or person involved in, the proceeding.
- (2) Unless the court orders otherwise, an interpreter must not accept an engagement to act as an interpreter in relation to a proceeding if the interpreter—

- (a) is or may become a party to, or witness in, the proceeding; or
  - (b) is related to, or has a close personal relationship with—
    - (i) a party to the proceeding or a member of a party's family; or
    - (ii) a witness or potential witness in the proceeding; or
  - (c) has or may have a financial or other interest of any kind whatsoever in the outcome of the proceeding, other than an entitlement to a reasonable fee for the services provided by the interpreter in the course of their engagement; or
  - (d) is or may be unable to fulfil their duty of accuracy or impartiality for any reason including, for example—
    - (i) personal or religious beliefs; and
    - (ii) cultural or other circumstances.
- (3) Other than carrying out their engagement to act as an interpreter, an interpreter must not provide any other assistance, service or advice in relation to the proceeding to any person, including—
- (a) the party, legal representative or other person who has engaged the interpreter; or
  - (b) any witness or potential witness in the proceeding.

## **7 Duty of competence**

- (1) An interpreter must only undertake work they are competent to perform in the languages for which they are qualified by reason of their training, qualifications or experience.
- (2) If it becomes apparent in the course of a

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proceeding that expertise beyond the interpreter's level of competence is required, the interpreter must—

- (a) inform the court immediately; and
- (b) work to resolve the situation by either withdrawing from the proceeding or following another strategy acceptable to the court.

## **8 Duty of confidentiality**

- (1) An interpreter must keep confidential all information in any form whatsoever that the interpreter acquires in the course of their engagement to act as an interpreter (including any communication subject to legal professional privilege).
- (2) Subrule (1) does not apply to the extent—
  - (a) the disclosure of the information is required by an Act or another law; or
  - (b) the information is in, or comes into, the public domain other than by an act of the interpreter in breach of this duty of confidentiality; or
  - (c) the beneficiary of the legal professional privilege has waived the privilege.

## **13 Amendment of sch 3 (Dictionary)**

- (1) Schedule 3, definition *code of conduct*—  
*omit.*
- (2) Schedule 3—  
*insert—*

*accurately*, in relation to interpreting, translating or sight translating, for chapter 11, part 6, see rule

429VB.

*code of conduct*—

(a) for chapter 11, part 5—see rule 425; or

(b) for chapter 11, part 6—see rule 429VB.

*interpret*, for chapter 11, part 6, see rule 429VB.

*other language*, for chapter 11, part 6, see rule 429VB.

*recognised agency*, for chapter 11, part 6, see rule 429VB.

*sight translate*, for chapter 11, part 6, see rule 429VB.

*translate*, for chapter 11, part 6, see rule 429VB.

ENDNOTES

- 1 Made by the Governor in Council on 22 May 2024.
- 2 Notified on the Queensland legislation website on 24 May 2024.
- 3 The administering agency is the Department of Justice and Attorney-General.

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